

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CIF LICENSING, LLC, d/b/a)	
GE LICENSING,)	
)	
Plaintiff,)	
)	C.A. No. 07-170-JJF
v.)	
)	JURY TRIAL DEMANDED
AGERE SYSTEMS INC.,)	
)	
Defendant.)	

[PROPOSED] RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by August 24, 2007 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before January 7, 2008.
3. **Discovery.**
 - (a) Exchange and completion of contention interrogatories (other than based upon third party documents), identification of fact witnesses and document production (other than in response to third party subpoenas) shall be commenced so as to be completed by January 31, 2008. All fact discovery, including depositions, shall be completed by June 1, 2008.
 - (b) Maximum of 75 interrogatories, including contention interrogatories, for each side.
 - (c) Maximum of 75 requests for admission by each side.

(d) Maximum of 20 depositions by plaintiff and 20 by defendant, excluding expert depositions. Depositions shall not commence until the discovery required by Paragraph 3 (a, b and c) is completed.

[Defendant Agere requests that the following text be inserted at the end of Section 3(d). Plaintiff GE Licensing disagrees, since Motorola has not been heard on the proposed addition, and further because the matter of the Rule 30(b)(6) deposition of the parties ought to be handled according to existing case law.

DEFENDANT'S PROPOSED INSERTED TEXT: Rule 30(b)(6) depositions shall be permitted up to 14 hours per party and shall count as a single deposition. The deposition of interested third-party Motorola, Inc., which is the original owner of the patents-in-suit, shall be permitted up to 21 hours and shall count as single deposition.]

(e) Opening expert reports under Fed. R. Civ. P. 26(a)(2) that relate to issues on which a party has the burden of proof are due by August 1, 2008. Rebuttal expert reports under Fed. R. Civ. P. 26(a)(2) that relate to issues on which a party does not have the burden of proof are due by September 1, 2008.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties or ordered by the Court.

4. Non-Case Dispositive Motions.

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The date selected shall be within 30

days of the filing of the motion and allow for briefing in accordance with the Federal and Local Rules. Available motion dates will be posted on the Court's website at www.ded.uscourts.gov.

(b) At the motion hearing, each side will be allocated twenty (20) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by e-mail at: jjf_civil@ded.uscourts.gov.

5. Amendment of the Pleadings. All motions to amend the pleadings shall be filed on or before February 8, 2008.

6. Case Dispositive Motions. Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before October 15, 2008. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

[Defendant Agere requests that the following text be added at the end of Section 6. Plaintiff GE Licensing does not concur as this Order already provides for a mechanism (seeking leave of this Court) for filing dispositive motions outside of the agreed timeline, and it is premature to address this addition without following that procedure.]

DEFENDANT'S PROPOSED INSERTED TEXT: Notwithstanding the foregoing, any motion based on an equitable or license defense, including Agere's anticipated

motion based on equitable estoppel and/or laches, may be served and filed on or before June 1, 2008.]

7. **Markman.** The parties request that a Markman hearing be held on June 11, 2008, or as soon thereafter as the Court's schedule permits. The parties shall identify and exchange claim terms to be construed by the Court on or before March 14, 2008, and exchange proposed claim constructions on or before March 28, 2008. The parties shall serve and file opening claim construction briefs on or before April 25, 2008. The parties shall serve and file responsive claim construction briefs on or before May 16, 2008. The Court, after reviewing the briefing, will allocate time to the parties for the hearing.

8. Applications by Motion.

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective July 1, 2007). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's December 15, 2006 Order on Procedures for Filing Non-dispositive motions in Patent Cases. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. Pretrial Conference and Trial. After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

DATE

UNITED STATES DISTRICT JUDGE

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